

# INDIANA BOARD OF TAX REVIEW

## Final Determination Findings and Conclusions Lake County

**Petition #:** 45-032-02-1-5-00454  
**Petitioners:** Stanley & Irene Kaminski  
**Respondent:** Department of Local Government Finance  
**Parcel #:** 009-22-12-0177-0009  
**Assessment Year:** 2002

The Indiana Board of Tax Review (the Board) issues this determination in the above matter, and finds and concludes as follows:

### Procedural History

1. The informal hearing as described in Ind. Code § 6-1.1-4-33 was held in Lake County, Indiana. The Department of Local Government Finance (the DLGF) determined that the Petitioners' property tax assessment for the subject property was \$434,000 and notified the Petitioners on March 31, 2004.
2. The Petitioners filed a Form 139L on April 16, 2004.
3. The Board issued a notice of hearing to the parties dated October 28, 2004.
4. A hearing was held on December 2, 2004, in Crown Point, Indiana before Special Master Barbara Wiggins.

### Facts

5. The subject property is located at 8660 Fair Oaks Lane, St. John, in St. John Township.
6. The subject property is a single family residence on a 120' x 337' lot.
7. The Special Master did not conduct an on-site visit of the property.
8. The DLGF determined that the assessed value of the subject property is \$66,000 for the land and \$368,000 for the improvements for a total assessed value of \$434,000.
9. The Petitioners request a value of \$423,700 for the total value.
10. Stanley Kaminski and Irene Kaminski, the owners of the subject property, and Everett Davis, representing the DLGF, appeared at the hearing and were sworn as witness.

## **Issues**

11. Summary of Petitioner's contentions in support of an alleged error in the assessment:
  - a. The Petitioners contend that their house was assessed too high. The Petitioners state that the assessor failed to give them a negative offset on their integral garage. *S. Kaminiski testimony and Petitioner Exhibit 3*. The Petitioners contend that this has to be an error because all of his neighbors received the offset. *S. Kaminiski testimony*.
12. Summary of Respondent's contentions in support of the assessment:
  - a. The Respondent agrees that an offset should be made for the garage and that an error has been made on the PRC. *Davis testimony*.

## **Record**

13. The official record for this matter is made up of the following:
  - a) The Petition.
  - b) The tape recording of the hearing labeled Lake County #902.
  - c) Exhibits:
    - Petitioner Exhibit 1: Form 139L
    - Petitioner Exhibit 2: Summary of Arguments
    - Petitioner Exhibit 3: Property Record Cards 2003
    - Petitioner Exhibit 4: Property Record Cards 2002
    - Petitioner Exhibit 5: Neighbor's Property Record Card 2003
    - Petitioner Exhibit 6: Neighbor's Property Record Card 2002
    - Petitioner Exhibit 7: Final Assessment
    - Petitioner Exhibit 8: Tax Bill
    - Petitioner Exhibit 9: Garage Photographs
  
    - Respondent Exhibit 1: Form 139L Petition
    - Respondent Exhibit 2: Subject Property Record Card
    - Respondent Exhibit 3: Subject Photograph
    - Respondent Exhibit 4: Top Comparables
    - Respondent Exhibit 5: Comparable PRC's and Photographs
  
    - Board Exhibit A: Form 139 L
    - Board Exhibit B: Notice of Hearing
    - Board Exhibit C: Sign in Sheet
  - d) These Findings and Conclusions.

## Analysis

14. The most applicable laws are:
- a) A petitioner seeking a review of a determination of the Department of Local Government Finance has the burden to establish a prima facie case proving, by a preponderance of the evidence, that the current assessment is incorrect, and specifically what the correct assessment would be. *See Meridian Towers East & West v. Washington Township Assessor*, 805 N.E.2d 475, 478 (Ind. Tax Ct. 2003); *see also Clark v. State Board of Tax Commissioners*, 694 N.E.2d 1230 (Ind. Tax Ct. 1998).
  - b) In making its case, the taxpayer must explain how each piece of evidence is relevant to the requested assessment. *See Indianapolis Racquet Club, Inc. v. Washington Township Assessor*, 802 N.E.2d 1018, 1022 (Ind. Tax Ct. 2004) (“[I]t is the taxpayer’s duty to walk the Indiana Board ...through every element of the analysis”).
  - c) Once the Petitioner establishes a prima facie case, the burden shifts to the assessing official to rebut the Petitioner’s evidence. *See American United Life Insurance Company v. Maley*, 803 N.E.2d 276 (Ind. Tax Ct. 2004). The assessing official must offer evidence that impeaches or rebuts the Petitioner’s evidence. *Id*; *Meridian Towers*, 805 N.E.2d at 479.
15. The Petitioners provided sufficient evidence to support the Petitioners’ contentions. This conclusion was arrived at because:
- a) The Petitioners contend that their property is overvalued. The Petitioners claim that the assessor failed to give them an adjustment for their garage. *S. Kaminiski testimony*. To support this claim the Petitioners show that on their PRC the assessor entered 179 square feet for the size of the garage, but failed to make an adjustment for the garage. *Petitioner Exhibit 3*. The Petitioners also submitted their neighbors PRC, which has an adjustment for their integral garage. *Petitioner Exhibit 4*.
  - b) The Respondent agrees he has never seen a property record card without a negative adjustment for an integral garage. *Davis Testimony*. He also testifies that an error was made and changes should be made in the assessment. *Id*.
  - c) Based on the agreement of the parties, the Board finds that the assessment should be corrected and that an adjustment should be made for the integral garage.

## Conclusion

16. The Petitioners made a prima facie case to support an offset for the integral garage. The Respondent agreed changes were warranted. The Board finds in favor of the Petitioners.

## Final Determination

In accordance with the above findings and conclusions the Indiana Board of Tax Review now determines that the assessment should be changed accordingly.

ISSUED: \_\_\_\_\_

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Commissioner,  
Indiana Board of Tax Review

## IMPORTANT NOTICE

### - APPEAL RIGHTS -

You may petition for judicial review of this final determination pursuant to the provisions of Indiana Code § 6-1.1-15-5. The action shall be taken to the Indiana Tax Court under Indiana Code § 4-21.5-5. To initiate a proceeding for judicial review you must take the action required within forty-five (45) days of the date of this notice. You must name in the petition and in the petition's caption the persons who were parties to any proceeding that led to the agency action under Indiana Tax Court Rule 4(B)(2), Indiana Trial Rule 10(A), and Indiana Code §§ 4-21.5-5-7(b)(4), 6-1.1-15-5(b). The Tax Court Rules provide a sample petition for judicial review. The Indiana Tax Court Rules are available on the Internet at <<http://www.in.gov/judiciary/rules/tax/index.html>>. The Indiana Trial Rules are available on the Internet at <[http://www.in.gov/judiciary/rules/trial\\_proc/index.html](http://www.in.gov/judiciary/rules/trial_proc/index.html)>. The Indiana Code is available on the Internet at <<http://www.in.gov/legislative/ic/code>>.